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Canadian Income Tax Law: Cases, Text, and Materials

Volume IV

David G. Duff
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University of Toronto
2000

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Chapter 11
Other Deductions

A. Introduction

In addition to various amounts which may be deducted in computing a taxpayer's income from a specific source of income, subdivision e specifies a number of additional statutory deductions which apply irrespective of any particular source of income. According to paragraph 3(c), these amounts may be deducted in computing a taxpayer's net income from all sources "except to the extent that those deductions, if any have been taken into account in determining the total referred to in paragraph (a)". As a result, where an amount referred to in subdivision e may also be deducted in computing a taxpayer's income from a specific source (other than a taxable capital gain), the amount is to be deducted in computing the taxpayer's income from that specific source rather than under subdivision e.

This chapter examines some of the key deductions in subdivision e, looking at statutory rules governing moving expenses, child care expenses and attendant care expenses.

B. Moving Expenses

Effective January 1, 1972, however, the Act was amended to allow a limited deduction for moving expenses under section 62. The following cases and commentary examine the various elements of this deduction, considering the kinds of expenses that are eligible for the deduction, statutory prerequisites to deductibility, and statutory limitations on deductibility.

1. Eligible Expenses

Subject to various prerequisites and limitations, examined below, the "midamble" to subsection 62(1) permits a taxpayer to deduct "amounts paid by the taxpayer as or on account of moving expenses incurred in the course of moving from the old residence to the new residence". The terms "old residence" and "new residence" are defined in subsections 62(1) and (2) and are examined below under the heading "Prerequisites to

Chapter 12
Rules Relating to the Computation of Income

A. Introduction

In addition to the various rules governing the computation of a taxpayer's icnome from each specific source, subdivision f contains a number of computational rules applicable to all sources. This chapter examines a number of these rules, looking at provisions limiting amounts otherwise deductible in computing a taxpayer's income from a source, provisions specifying the amount at which certain transfers of property will be deemed to have occurred for tax purposes, and the attribution rules which deem certain amounts to have been received by someone other than the actual recipient.

B. Limitations on Deductions

In addition to specific limitations on allowable deductions in computing income from particular sources, subdivision f establishes various general limitations on deductions irrespective of the source of income to which the deductions apply. This section examines the general "reasonableness" limitation in section 67 and the specific limitation in section 67.1 on amounts "paid or payable in respect of the human consumption of food or beverages or the enjoyment of entertainment".

1. Reasonableness

In computing a taxpayer's income from any source, section 67 stipulates that "no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances."

Section 67 is derived from subsection 6(2) of the *Income War Tax Act* which, when originally enacted in 1933, allowed the Minister to "disallow as an expense the whole or any portion of any salary, bonus or commission or director's fee which in his opinion is in excess of what is reasonable for the services performed." In 1940, this provision was replaced with a more general rule, allowing the Minister to "disallow any expense which he in his discretion may determine to be in excess of what is reasonable or